

REMARKS

The Examiner finds that claims 1-23 are pending in the application and the Examiner requires election of an invention from the following: Group I including claims 1-10 and 22-23 drawn to a method of forming a framework for mounting panels on a roof and a kit thereof; and Group II drawn to a panel support element. The Examiner further asserts that the claims lack the same inventive concept and finds that Group I corresponds to a solar panel for converting solar energy into electrical energy and that Group II corresponds to a supporting element for a mounting structure.

The Examiner's accounting for the number of claims present in the application is incorrect. Specifically, the Examiner failed to consider claims 24-25 presented in the originally filed application or claims 26-31 presented in a preliminary amendment filed with the original application.

Applicant contacted the Examiner on January 21, 2005 and pursuant to the communication between Applicant and the Examiner, Group I, directed to the method claims and the kit claims, now includes claims 1-10, 22-25 and 27-31, while Group II, directed to the panel support element, now includes claims 11-21 and 26.

Applicant hereby elects Group II for further prosecution on the merits.

Although Applicant provided the above election, Applicant further provides the following traverse against the restriction requirement.

An analysis for unity of invention, under PCT rules 13.1 and 13.2, is applied "in relation to the independent claims" in an application "and not the dependent claims." MPEP 1850, *Determination of Unity of Invention*. When considering multiple independent claims, "[i]n addition to an independent claim for a given product...an independent claim for a use of said product" satisfies the requirement for unity of invention. *Id.*

Here, three independent claims are presented, including Claim 1, Claim 11 and Claim 22. Claim 11 is directed to a panel support element adapted for being fit adjacent to similar panel support elements, Claim 1 is directed to forming a framework of panel support elements for mounting panels on a roof, and 22 is directed to a kit of parts for assembling a support frame, where the series of parts includes a panel support element and a photovoltaic panel.

In comparing the independent claims, each independent claim is directed to a panel support element or a use for the panel support element in a framework or a kit. Accordingly, Applicant asserts that the Examiner is incorrect in determining that the unity of invention standard has not been met by the independent claims in Groups I and II. Furthermore, as only independent Claim 22 recites a photovoltaic

panel, the Examiner is incorrect in asserting that both Claims 1 and 22 belong in a group directed to a solar panel for converting solar energy into electrical energy.

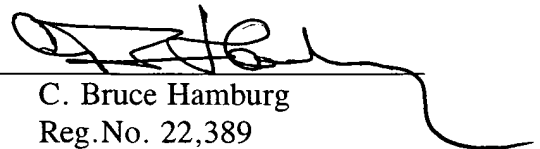
Accordingly, with the unity of invention requirement being met between Groups I and Group II, and the claims of Group II being inappropriately grouped, the restriction requirement is improper.

Applicant respectfully requests a one month extension of time for responding to the Office Action. Please charge the fee of \$120.00 for the extension of time to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Respectfully submitted,
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